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## FACSIMILE COVER SHEET

**DATE:** February 28, 2005

**TO:** **NAME:** Office of Initial Patent Examination – Filing Receipt Corrections  
**COMPANY:** U.S. Patent and Trademark Office  
**FAX NO:** (703) 746-9195

**FROM:** **NAME:** Janelle D. Waack, Reg. No. 36,300  
**CONFIRMATION #:** 713-787-1686 **USER ID:** 5178

**NUMBER OF PAGES, INCLUDING COVER:** 7 **CHARGE NUMBER:** 11889.0175.REUS07

☒ ORIGINAL WILL NOT FOLLOW

## CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY THAT THE DOCUMENTS LISTED BELOW ARE BEING FACSIMILE TRANSMITTED TO THE U.S. PATENT AND TRADEMARK OFFICE, OFFICE OF INITIAL PATENT EXAMINATION, FILING RECEIPT CORRECTIONS AT (703) 746-9195 ON THE DATE BELOW:

2/28/05

DATE

Martha Knight

SIGNATURE

## SUPPLEMENTAL MESSAGE:

Request for Corrected Filing Receipt, U.S. Patent Reissue Application Serial No. 10/622,201  
Copy of Decision on Petition, mailed July 13, 2004  
Copy of Original Filing Receipt issued November 2, 2004, with change noted thereon

THE INFORMATION CONTAINED IN THIS TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL. IT IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.


IF THERE ARE ANY QUESTIONS OR PROBLEMS WITH THE TRANSMISSION OF THIS FACSIMILE, PLEASE CALL 713.787.1464.

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****In re Reissue Application of:****Barry et al.****Serial No. 10/622,201****Filed: July 18, 2003****Atty. Dkt. No.: 11899.0175.REUS07****For: GLYPHOSATE-TOLERANT 5-  
ENOLPYRUVYLSHIKIMATE-3-  
PHOSPHATE SYNTHASES****REQUEST FOR CORRECTED FILING RECEIPT****Office of Initial Patent Examination  
Filing Receipt Corrections  
Fax. No. 703-746-9195**

Please issue a corrected filing receipt to indicate the July 18, 2003, filing date of this reissue application. The original filing receipt mailed November 2, 2004, incorrectly states a filing date of July 18, 2004. However, as stated on the Decision on Petition mailed July 13, 2004 (copy attached), by the USPTO Office of Petitions, the filing date of this application is July 18, 2003. A copy of the original filing receipt with the change noted thereon is attached to this paper.

Should any fee be required for any reason in connection with this paper, the Commissioner is authorized to deduct said fees from Howrey Simon Arnold & White deposit account No. 01-2508/11899.0175.REUS07.

Date: February 28, 2005



Janelle D. Waack  
Reg. No. 36,300

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (C) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/622,201	07/18/2004 2003	1638	1074	11899.0175.REUS07	70	105	16

CONFIRMATION NO. 4034

Janelle D. Waack  
 Howrey Simon Arnold & White, LLP  
 750 Bering Drive  
 Houston, TX 77057-2198

## FILING RECEIPT



\*OC000000014289596\*

Date Mailed: 11/02/2004

Receipt is acknowledged of this reissue Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Gerard F. Barry, St. Louis, MO;  
 Ganesh M. Kishore, Chesterfield, MO;  
 Stephen R. Padgett, Grover, MO;  
 William C. Stallings, Glenco, MO;

## Power of Attorney:

Janelle Waack--36300

## Domestic Priority data as claimed by applicant

This application is a REI of 08/308,063 09/13/1994 PAT 5,633,435  
 which is a CIP of 07/749,611 08/28/1991 ABN  
 which is a CIP of 07/576,537 08/31/1990 ABN

## Foreign Applications

If Required, Foreign Filing License Granted: 11/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/622,201**.

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

**Early Publication Request:** No

**Title**

Glyphosate-tolerant 5-enolpyruvylshikimate-3-phosphate synthases

**Preliminary Class**

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



## UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of  
Gerard F. Barry et al.  
Application No. 10/622,201  
Filed: July 18, 2003  
Attorney Docket No. 11899.0175.REUS07

DECISION ON  
PETITIONDOCKETED  
*Simon 7/28/04*

This is a decision on the petition filed June 10, 2004, under 37 CFR 1.53, requesting a filing date of July 18, 2003 for the above identified application.

Application papers in the above-identified application were filed on July 18, 2003. However, on May 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application had not been accorded a filing date because a complete specification as prescribed by 35 U.S.C. 112 had not been filed. The Notice indicated that a Specification with at least one claim was required.

Petitioner argues that a copy of U.S. Patent 5,633,435, containing the specification and claims from that patent were included with the application on filing.

A review of the file reveals that the specification which includes claims and remarks on pages numbered 2-15 had been made a part of the record and thus was not missing from the application when filed. Additionally, petitioners assertion that the application had been filed with a specification is corroborated by a properly proffered date stamped return receipt.

In view of the foregoing, the petition under 37 CFR 1.53 is **GRANTED**.

Given the basis for granting the petition, no petition fee is due and none will be charged.

The application is being returned to the Office of Initial Patent Examination for

REC'D HOWREY SIMON ARNOLD &amp; WHITE

JUL 19 2004

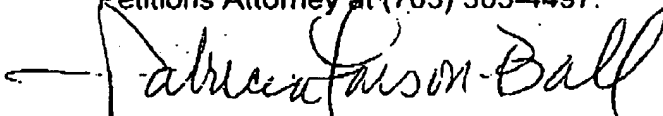
Application No. 10/622,201

Page 2

correction of the filing date and a correction of PTO records to show that the specification was submitted with the application on filing.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of July 18, 2003, using the application papers received in the Office on that date, including the pages of claims and remarks found in the file (numbered 2-15. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions